



Virginia  
Regulatory  
Town Hall

## Final Regulation Agency Background Document

<b>Agency Name:</b>	Board of Psychology, Department of Health Professions
<b>VAC Chapter Number:</b>	18 VAC 125-20-10 et seq.
<b>Regulation Title:</b>	Regulations Governing the Practice of Psychology
<b>Action Title:</b>	Licensure of School-Psychologists-Limited
<b>Date:</b>	1/31/01

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package.

### Summary

*Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.*

The proposed amendments establish fees and application instructions for licensure as school psychologists-limited for individuals who are licensed by the Board of Education with an endorsement in psychology and a master's degree in psychology.

### Changes Made Since the Proposed Stage

*Please detail any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication. Please provide citations of the sections of the proposed regulation that have been altered since the proposed stage and a statement of the purpose of each change.*

Some of the miscellaneous fees established for licensees of the Board of Psychology were not inserted in the column for school psychologists-limited in 18 VAC 125-20-30. All proposed fees were set in compliance with the Principles for Fee Development and are consistent with or proportional to fees for the other three categories of licensure. They include \$25 to verify a license to another jurisdiction, \$5 to issue a duplicate license, \$125 to reinstate a lapsed license and \$500 to reinstate following revocation or suspension. The phrase "for examination" was inadvertently inserted in the Register and should be deleted; this will be licensure by endorsement, not examination.

### Statement of Final Agency Action

*Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.*

On, January 25, 2001, the Board of Psychology adopted final amendments to 18 VAC 125-20-10 et seq., Regulations Governing the Practice of Psychology, in order to implement a statutory mandate to establish a license for school psychologists-limited.

### Basis

*Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law*

**Chapter 24** establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations, levy fees, administer a licensure and renewal program, and discipline regulated professionals.

*§ 54.1-2400. General powers and duties of health regulatory boards.--The general powers and duties of health regulatory boards shall be:*

1. *To establish the qualifications for registration, certification or licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
2. *To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
3. *To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
4. *To establish schedules for renewals of registration, certification and licensure.*
5. *To levy and collect fees for application processing, examination, registration, certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.*
6. *To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 and Chapter 25 of this title.*
7. *To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate or license which such board has authority to issue for causes enumerated in applicable law and regulations.*
8. *To appoint designees from their membership or immediate staff to coordinate with the Intervention Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.) of this title. Each health regulatory board shall appoint one such designee.*
9. *To take appropriate disciplinary action for violations of applicable law and regulations.*
10. *To appoint a special conference committee, composed of not less than two members of a health regulatory board, to act in accordance with § 9-6.14:11 upon receipt of information that a practitioner of the appropriate board may be subject to disciplinary action. The special conference committee may (i) exonerate the practitioner; (ii) reinstate the practitioner; (iii) place the practitioner on probation with such terms as it may deem appropriate; (iv) reprimand the practitioner; (v) modify a previous order; and (vi) impose a monetary penalty pursuant to § 54.1-2401. The order of the special conference committee shall become final thirty days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the thirty-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 9-6.14:12, and the action of the committee shall be vacated. This subdivision shall not be construed to affect the authority or procedures of the Boards of Medicine and Nursing pursuant to §§ 54.1-2919 and 54.1-3010.*

11. *To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 9-6.14:12, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 9-6.14:11 shall serve on a panel conducting formal proceedings pursuant to § 9-6.14:12 to consider the same matter.*
12. *To issue inactive licenses and certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of such licenses or certificates.*

**The specific statutory mandate for the Board to set qualifications and standards for licensure is found in:**

**§ 54.1-3606. License required.**

*A. In order to engage in the practice of applied psychology, school psychology, or clinical psychology, it shall be necessary to hold a license.*

*B. Notwithstanding the provisions of subdivision 4 of § 54.1-3601 or any Board regulation, the Board of Psychology shall license, as school psychologists-limited, persons licensed by the Board of Education with an endorsement in psychology and a master's degree in psychology. The Board of Psychology shall issue licenses to such persons without examination, upon review of credentials and payment of an application fee in accordance with regulations of the Board for school psychologists-limited.*

*Persons holding such licenses as school psychologists-limited shall practice solely in public school divisions; holding a license as a school psychologist-limited pursuant to this subsection shall not authorize such persons to practice outside the school setting or in any setting other than the public schools of the Commonwealth, unless such individuals are licensed by the Board of Psychology to offer to the public the services defined in § 54.1-3600.*

*The Board shall issue persons, holding licenses from the Board of Education with an endorsement in psychology and a license as a school psychologist-limited from the Board of Psychology, a license which notes the limitations on practice set forth in this section.*

*Persons who hold licenses as psychologists issued by the Board of Psychology without these limitations shall be exempt from the requirements of this section.*

The Assistant Attorney General who provides counsel to the Board of Psychology has provided a letter of assurance that the amended regulations are consistent with statutory law.

## Purpose

*Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.*

Amendments are proposed pursuant to a statutory mandate in Chapters 967 and 1005 of the 1999 Acts of the Assembly which provide for the Board to license school psychologists-limited upon

review of credentials and payment of an application fee. Regulations of the Board for licensure and practice are promulgated to protect the health, safety and welfare of children who are in the need of school psychologist services.

## Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action's detail.*

## Issues

*Please provide a statement identifying the issues associated with the final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.*

### 1) **Qualifications for licensure.**

Chapters 967 and 1005 of the 1999 Acts of the Assembly amended the practice act for psychology by adding section B to §54.1-3606, which mandates that the Board promulgate regulations for the licensure of school psychologists-limited. The Code is very specific that the Board shall issue a license "without examination" to persons "licensed by the Board of Education with an endorsement in psychology and a master's degree in psychology." Therefore, the Board was not authorized to impose additional criteria or qualifications for licensure, and the adopted regulations follow the specific language of the law.

### 2) **Establishment of fees for school psychologists-limited.**

The Board recently submitted proposed fee changes for its three existing licensure categories based on the agency's *Principles for Fee Development*. The same *Principles* were used to establish application, renewal, and late-renewal fees for school psychologists-limited. Other fees are generic to all professions, and will be assessed at the same rate as already established for the existing licensure categories.

Since the credentials review of the school psychologists-limited applications will be less involved than the review of applications for independent practice, there will be less board member and staff time spent in review. Therefore, the Board determined that the application fee should reflect the less costly review. The proposed \$85 application fee is comprised of a \$25 processing fee based on the estimated cost of staff time, plus ½ of the biennial renewal fee based on the average time period of initial licensure, plus a \$10 fee for a wall certificate based on printing and

mailing costs.

The Board also determined that the likelihood of disciplinary action is much lower for this new category, since practice is limited to structured school settings under appropriate supervision. Therefore, the Board is proposing a renewal fee at half the rate of the other licensure categories to cover the administrative costs of board meetings, mailings, and staff time, and the cost of disciplinary hearings at a reduced rate.

The proposed late renewal fee is based on 35% of the biennial renewal fee, in accordance with the agency's *Principles for Fee Development*. As stated previously, a proposal to change fees for the other licensure categories according to the same *Principles* has been submitted to the administration for approval.

### **3) Scope of practice for school psychologists-limited.**

During the development of regulations, questions were raised about the scope of practice for school psychologists-limited. While the statute is clear that their practice is limited to the public schools of the Commonwealth, but it does not further specify the scope of activities which are or are not permitted. However, the practice of school psychology is defined in § 54.1-3600, so it is presumed that persons practicing with the school license would be practicing within that scope of practice definition. Therefore, the Board determined that no additional amendments were necessary or authorized to clarify the scope of practice for school psychologists-limited, who are also subject to disciplinary action for unprofessional conduct if they practice without skill and safety.

#### **Advantages to the licensees and the school systems:**

Persons seeking licensure as school psychologists-limited will only need to meet the requirements of law - a master's degree in school psychology and licensure from the Department of Education with an endorsement in the field. There is very little benefit to the individuals holding this license, since it will not entitle them to practice outside the public schools where they are already employed.

The advantage of these regulations, which simply establish a license as required by law, is for the employers of the licensees who will seek Medicaid reimbursement for their services. If the Health Care Financing Authority does reimburse for services rendered by persons holding this limited license, schools will have significant additional dollars with which to pay for mandated services to children.

#### **Disadvantages to the licensees:**

For licensees, there will be some additional costs - \$85 to apply for the license and \$100 to renew the license every two years. In addition, persons holding the new license will be subject to the laws and regulations of the Board of Psychology as well as the rules and policies of the Board of Education and the local school systems.

#### **Advantages or disadvantages to the public:**

The advantages of this license to the public are the possibility that additional Medicaid funding will be made available to support school psychology services offered in the public schools, thereby increasing the availability of such services to children. In addition, local school funds that would be required to pay for such services may be available for other needs.

**Advantages or disadvantages to the agency:**

The Board may have to license and regulate as many as 500 new licensees, but there will be additional income through fees to support that activity. There should be very little impact on the Enforcement division, since the Board anticipates few disciplinary problems with this licensure category.

**Public Comment**

*Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.*

A public hearing was held before the Board of Psychology at the Department of Health Professions in Richmond on September 21, 2000. No comment was presented at that time.

During the 60-day comment period from August 28, 2000 to October 27, 2000, there was one question raised about the necessity for specifying a master's degree since the commenter believed that all school psychologists endorsed by the Board of Education hold that degree. The Board has responded that a master's degree is specified in the law as a requirement for the license under the Board of Psychology.

**Detail of Changes**

*Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.*

**18 VAC 125-20-10. Definitions.**

A definition for "school psychologist-limited" is added to clarify that it is a person licensed pursuant to § 54.1-3606 to provide school psychology services in public school divisions.

**18 VAC 125-20-30. Fees.**

The proposed amendment would set the application fee at \$85, which is approximately half the application fee for persons who are fully licensed to practice. The renewal fee is also proposed at one half the current fee for the independent practice categories. The proposed late renewal fee and other miscellaneous fees are equivalent to the renewal fee recently proposed by the Board for the other licensure categories as based on the agency's Principles for Fee Development.

**18 VAC 125-20-43. Requirements for licensure as a school psychologist-limited.**

The proposed amendments establish the documentation required for licensure in accordance with the provisions of § 54.1-3606 of the Code of Virginia.

**Family Impact Statement**

*Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

The Board has reviewed the adopted regulations and concluded that the amendments have no effect on strengthening the authority and rights of parents, on economic self-sufficiency, on the marital commitment or on disposable family income.